

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

This Mutual Release and Settlement Agreement (hereafter referred to as "Agreement") is entered into, by and between **SHARON RENE BLACKMON** (hereafter referred to as "Petitioner" or "Employee") and the **NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES**, (hereafter referred to as the "Respondent" or "Department"), (hereinafter collectively referred to as "Parties"). The Parties agree that they desire to settle fully and finally all employment relationship matters between them, including, but not limited to, any differences that might have arisen out of the Employee's employment with the Department and the separation of Employee from employment with the Department. The Employee and the Department have agreed to sever their employment relationship and this Agreement sets forth their complete agreement and understanding regarding the Employee's separation from the Department and all issues related to Employee's employment with the Department.

NOW THEREFORE, in consideration of the covenants and promises herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the following Agreement is entered into by the undersigned Parties.

AGREEMENT

1. **Separation.** The Department and Employee acknowledge that the Employee's employment with the Department ceased on her Separation Date. For purposes of this Agreement, Separation Date shall mean August 31, 2017. Within ten (10) days of the Parties signing this Agreement, Employee shall tender a resignation letter stating that she has resigned effective August 31, 2017. The Department shall accept Employee's resignation and shall remove the Notice of Dismissal from Employee's personnel file. The Department shall cause the Employee's record in the Integrated Human Resources/Payroll System to reflect resignation as the reason for separation. The Department agrees to provide a neutral employment reference (i.e., public information under N.C.G.S. § 126-23) for Employee to prospective non-Department employers.

2. **Settlement Payment.** In consideration of Employee signing and not revoking this Agreement, and complying with all its terms and conditions, the Department will electronically pay Employee a single lump sum payment in the total amount of Forty-Five Thousand Dollars and 00/100 cents (\$45,000.00), a portion of which is in settlement of the aforementioned Petition for Contested Case Hearing (17 OSP 08677). This payment shall be made within thirty days from receiving the

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Blackmon v. DHHS, 17 OSP 08677

Page 2 of 8

signed agreement and signed form PD-14 from Employee. The Department will issue the required tax Form 1099 for purposes of this payment. If the payment cannot be made through electronic means, a paper check will be mailed overnight to Plaintiff's address on file.

3. **Dismissal and Disavowal of Any Further or Additional Claims.**

Within ten (10) days following receipt of the executed Agreement and full payment of all amounts due are received, Employee agrees to withdraw, dismiss and terminate, with prejudice, any and all pending charges, complaints, claims, grievances or other actions, including but not limited to the aforementioned Petition for Contested Case Hearing (17 OSP 08677) filed with the North Carolina Office of Administrative Hearings, which are against or involve the Department and which in any way relate to Employee's employment relationship with the Department, Employee's separation from employment, the employment practices of the Department, and/or any other conduct by the Department on or before the date of the execution of this Agreement by both Parties. This includes, but is not limited to, contested case 17 OSP 05186 pending in the Office of Administrative Hearings; and EEOC Charge #435-2017-00718. The Parties agree to enter a stipulation of dismissal, without prejudice, in case 1:17-cv-890 pending in the United States District Court for the Middle District of North Carolina. Further, Employee agrees to submit a letter to the Department withdrawing the public records requests Employee previously submitted to the Department and to not refile the lawsuit (17 CVS 8286) associated with said public records requests.

4. **Waiver of Reemployment and Neutral Reference.** Employee agrees not to seek employment with the Department at any time in the future. The Department agrees they will provide Employee with a neutral employment reference (i.e., public information under N.C.G.S. § 126-23), upon request by any prospective non-Department employer.

5. **No Admission.** This Agreement and compliance with this Agreement shall not be construed as an admission on the part of the Department or Employee of any violation of the rights or interests of Employee or of any other individual or entity. Nor shall the Agreement or compliance with the Agreement be construed as an admission by the Department or Employee of any violation of any order, ruling, law, statute, regulation, contract or covenant, express or implied, on the part of the

Department, including its current and/or former directors, supervisors, employees, agents, or representatives.

6. Waiver and Release.

(a) Except as stated herein, based upon the consideration recited above and the mutual releases granted herein, Employee, on behalf of herself, successors and assigns, fully releases the Department, its successors, assigns, subsidiaries, affiliates, officers, directors, employees, agents and representatives, from any and all liability, costs, expenses and remedies of any type, by reason of any act or omission arising out of or in connection with the Employee's employment with or separation from employment by the Department, including without limiting the generality of the foregoing: claims under the North Carolina State Human Resources Act, N.C. Gen. Stat. § 126-1, et seq.; Title VII of the Civil Rights Act of 1964, as amended (Title VII); the Age Discrimination in Employment Act of 1967 (ADEA); the Civil Rights Act of 1866 as amended (42 U.S.C. § 1981); the Americans with Disabilities Act, as amended (ADA); the Family and Medical Leave Act, as amended (FMLA); the North Carolina Retaliatory Employment Discrimination Act, as amended (REDA); or any other federal, state, or local statute or regulation regarding employment, discrimination in employment, or the termination of employment, worker's compensation, occupational health and safety, or environmental protection, and federal or state common law related to employment contracts, wrongful discharge, or any other matter arising out of, or relating to, Employee's employment at the Department.

(b) Employee agrees not to institute or pursue any lawsuit, grievance, charge of discrimination, or proceeding in any forum that is in any way based upon or arising out of any matter involving Employee and the Department from the date of her employment through the execution of this Agreement; and further Employee agrees to dismiss with prejudice and withdraw, in addition to what is described above, any other active lawsuits, charges of discrimination, complaints, or other actions with any state or federal agency based upon the said matters. The Parties do not waive the right to enforce the terms of this Agreement.

7. Obligation for Attorney's Fees and Costs to Date. The Department agrees to pay the total amount of Two Thousand and 00/100 Dollars (\$2,000.00) in attorney's fees to Employee's attorney. Within thirty days following Respondent receiving from Petitioner the signed Agreement and signed form PD-14, the

DELIVERED AUG 01 2018

Department shall issue a check for attorney's fees in the total amount of Two Thousand and 00/100 Dollars (\$2,000.00) to AJC Legal Services. Except as otherwise stated, the Parties agree that each will assume liability, if any exists, for their own attorney's fees and costs incurred in the prosecution or defense of this matter.

8. **Enforcement.** The Department and Employee agree that this Agreement may be used as evidence only in a subsequent proceeding to enforce the provisions of this Agreement.

9. **Construction of Agreement.** Employee warrants that in agreeing to the terms of the Agreement, she has not relied in any way upon any representations or statements of the Department regarding the subject matter hereof or the basis or effect of the Agreement other than those representations or statements contained herein. The Agreement shall be construed in accordance with North Carolina law. The Parties consent to the jurisdiction of the North Carolina Office of Administrative Hearings and/or North Carolina Courts over this matter, so long as jurisdiction is otherwise proper. The Parties confirm their understanding that this Agreement is subject to approval by the Office of State Human Resources in accordance with 25 N.C.A.C. 1B .0436.

10. **Entire Agreement.** It is understood and agreed that this Agreement expresses a full and complete settlement of any and all claims, the same having been denied, and regardless of the adequacy of the terms of this Agreement is intended to avoid any possible litigation, hearings, reviews, investigations, or controversies. This Agreement contains the entire agreement between the Department and Employee with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. In the event that one or more of the provisions of this Agreement shall for any reason be held to be unenforceable, this Agreement shall be revised only to the extent necessary to make such provision(s) legal and enforceable.

11. **Complete Paperwork to Effectuate Agreement.** The Parties agree to execute any and all other documents necessary or appropriate to effectuate this Agreement. Duplicate originals of the Agreement shall be signed and approved by the Parties with each party retaining an original. For the convenience of the Parties, this Agreement may be executed in one or more counterparts, each of which shall be

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deemed an original and all of which together shall constitute one and the same instrument.

12. **Binding Effect of Agreement on Successors in Interest.** This Agreement shall be binding upon and shall be for the benefit of the Department, its successors, assigns, agents, representatives and employees (both past and present in their official capacity or individual capacity) and the Employee, as well as her respective heirs, agents, representatives, successors and assigns.

13. **Public Record, Confidentiality, and Nondisclosure.** The Parties acknowledge that by law this agreement is considered to be a public record subject to disclosure pursuant to the North Carolina Public Records Act found at Chapter 132 of the North Carolina General Statutes. Except as required by law pursuant to a public records request, neither party shall disclose the contents and terms of this Agreement except as necessary to carry out the terms of this Agreement.

14. **Severability of provisions.** If any provision of this Agreement as applied to any Party or to any circumstance shall be deemed to be illegal, invalid or unenforceable, such illegality, invalidity, or unenforceability shall not affect the remainder hereof or its validity or enforceability in any jurisdiction.

15. **Acknowledgement.**

(a) Employee recognizes and agrees that under the terms and provisions of this Agreement she is releasing and waiving rights she may have to pursue any claims against the Department arising under the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. (ADEA). In connection with her waiver of those rights, Employee specifically acknowledges that she has been given at least twenty-one (21) days in which to consider this Agreement; that she has been advised in writing that she has the right to and may consult an attorney before executing this Agreement; that she has seven (7) days following the signing of this Agreement to revoke the Agreement, and that the Agreement will not become effective or enforceable until after this seven (7) day period has expired; that to revoke this Agreement, she must advise the Department in writing of her election to revoke it within the seven (7) day period; that she is specifically releasing, among other potential causes of action, any claims she may have against the Department arising under the ADEA and all amendments thereto; that she is not waiving or relinquishing any rights or claims

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

Blackmon v. DHHS, 17 OSP 08677

Page 6 of 8

she may have against the Department that arise after the date of this Agreement is executed; and that this Agreement is intended by the Parties to comply with the terms and provisions of the Older Workers Benefit Protection Act of 1990 (OWBPA) and all amendments thereto.

(b) In addition to the claims and time frames specifically referenced in subparagraph (a) of this Paragraph 15, Employee represents and warrants that she has been given a reasonable period of time to consider this Agreement; that she has read the entire Agreement; that she has had sufficient time to consult an attorney about the meaning and intent of the Agreement; and that she enters into this Agreement of her own free will, without coercion, undue influence, threat, or intimidation of any kind, with the intention of being legally bound to its terms.

16. Authorization. Employee warrants that the Department representative, who signs this Agreement, has the authority to execute the Agreement on behalf of the Department. Likewise, the Department warrants that the representative who signs this Agreement has the authority to execute the Agreement on behalf of the Department.

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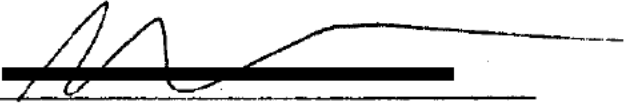
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EXECUTED AND AGREED UPON AS FOLLOWS:

Petitioner, SHARON RENE BLACKMON, executed the Agreement on the day and year noted below.


Dated: 7-26-2018 
Sharon Renea Blackmon
Petitioner / Employee

For purposes of review only by:

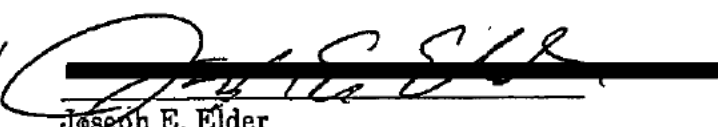
Dated: 7-26-18 
A. James Cuticchia
Attorney for Petitioner

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Respondent, NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES, executed the Agreement on the day and year noted below.

Dated: 7/30/18 
Tara K. Myers
Senior Director
N.C. Dept. of Health and Human Services
Respondent/Department

For purposes of review only by:

Dated: 7/27/2018 
Joseph E. Elder
Assistant Attorney General
Attorney for Respondent/Department

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